

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001- 852

August 20, 2002

PUBLIC UTILITIES COMMISSION
Standards for Billing, Credit and Collection,
Termination of Service, and Customer Information
for Eligible, Non-Eligible, and Interexchange
Telecommunications Carriers (Chapters 290, 291
and 292)

ORDER GRANTING
WAIVER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order we grant eligible telecommunications carriers (ETCs) a six-month waiver for implementing the provisions of Chapter 290.

II. BACKGROUND

On June 19, 2002, the Commission adopted new consumer protection rules – Chapters 290, 291, and 292. Chapter 290 applies to all ETCs in Maine, currently the incumbent local exchange carriers (ILECs) for Maine. Chapter 290 changes many of the provisions of the current consumer rules in Chapter 81 as they apply to ETCs. The most significant change in Chapter 290 prohibits ETCs from disconnecting a customer's basic service for non-payment of toll or optional services. This one major policy change is implicated in many different sections of Chapter 290 and will require carriers to make significant changes to their billing and customer service systems.

On July 26, 2002, the Telephone Association of Maine (TAM) filed a Request for Waiver, which sought a 6-month waiver from all of the requirements of Chapter 290. TAM claimed that the waiver was necessary to allow the companies time to re-program their billing systems and train customer service representatives. TAM also commented on what it perceived to be procedural irregularities relating to the publication of the final rule.¹ On August 7, 2002, Verizon filed comments in support of TAM's waiver request.

¹We find TAM's comments very puzzling given that Commission Staff has gone out of its way to keep the TAM members informed of matters relating to the implementation of the new rules. Further, we assumed that TAM understood our rulemaking procedures, namely that the Secretary of State must sign the rules after we deliberate them. In this case, deliberations took place on June 19, 2002. Because of some significant changes to the proposed rules, our final order and rules were not ready until June 25, 2002. At that point they were sent to the Secretary of State's office and the Attorney General for final approval, steps that had to be taken to comply with the deadlines in the Administrative Procedure Act. Consistent with our normal practices, we

Verizon stated that it “assumed” that the carriers would be given sufficient time to implement the new rules. It pointed to its comments claiming a need for 18 months to implement the new rules and claimed that the Commission had not given any indication that it would not provide the necessary time.

III. DECISION

We grant TAM's request with reluctance. While we acknowledge that it will take time and resources for carriers to bring their systems into compliance with the new rules, we note that the adoption of these rules was a lengthy process, thereby giving considerable notice that a change in the disconnection policy was in the works, and we question why no party requested that we include in Chapter 290 a provision delaying the effective date of the rules. In addition, Verizon did not provide any detailed support for its estimate of the time needed to change its software. Indeed, as a general matter, we find it surprising that a company involved in an industry that takes pride in its technological innovation would have such a difficult time re-programming its computers.

We will grant the full 6-month waiver requested by TAM. However, all companies should understand that we intend to approve no further waivers of the rules associated with the “no disconnection of local for toll” policy and that any further waivers of the remaining rules will require a showing of extraordinary need.

Dated at Augusta, Maine, this 20th day of August, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

did not send out final copies at that time. However, due to internal miscommunication, the Order and earlier versions of the rules were accidentally posted on our website. When we were informed of the error, we removed all of the documents. On July 19, 2002, the Secretary of State signed and returned the rules. On July 23, 2002, a Consumer Affairs Division Bulletin was sent to all carriers advising them that the Commission's Order and the final rules were available on our website.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.